

1 summary judgment or denies summary judgment.

2 **3. PLAINTIFF'S ARGUMENT FOR CLAIM PRECLUSION HAS BEEN DECIDED IN**
3 **DEFENDANTS FAVOR**

4 Plaintiff's motion for partial summary judgment on the issues of
5 collateral estoppel and for issue preclusion in this case based solely
6 on Defendant's conviction and sentencing. The same issues were
7 litigated on there merits in the related state case of E.A. v. Boehm,
8 Superior Court Case 3AN-05-11782 CI. The motion for partial summary
9 judgment was denied.

10 **4. CONCLUSION**

11 For the foregoing reasons defendant respectfully requests that
12 this Court set aside its order granting partial summary judgment and
13 allow the opposition to be re-filed and heard on its own merit.
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15 September 13, 2006

KENNER LAW FIRM, P.C.

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17 By: 

18 David E. Kenner,
19 Attorney for Defendant Josef F. Boehm
20 Kenner Law Firm
21 16000 Ventura Blv.
22 Penthouse 1208
23 Encino, CA 91436
24 Phone: 818-995-1195
25 Fax: 818-475-5369
26 Email: office@kennerlaw.com
27 Bar Number: 41425
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